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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,776	04/16/2004	Robert C. Getts	4081.010.200	8737

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EXAMINER	
STRZELECKA, TERESA E	

ART UNIT	PAPER NUMBER
1637	

DATE MAILED: 07/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/825,776	GETTS ET AL.	
	Examiner	Art Unit	
	Teresa E. Strzelecka	1637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-24 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species:

Species of capture reagent

A) capture reagent is a dendrimer (claim 3, in part and 5),

B) capture reagent is a carbohydrate (claim 3, in part),

C) capture reagent is a protein (claim 3, in part),

D) capture reagent is a nucleic acids (claim 3, in part).

Species of further method steps

E) step (b) further comprises incubating the microarray from step (a) at a first temperature for a first period of time, and then incubating the microarray from step (a) at a lower second temperature for a second period of time (claims 6-8),

F) step (b) further comprises incubating the microarray from step (a) at a first temperature for a first period of time, and then incubating the microarray from step (a) at a lower second temperature for a second period of time and the first temperature is in the range from about 65 C to 75 C and the second temperature is in the range from about 50 to about 55 C (claim 9),

G) step (b) further comprises incubating the microarray from step (a) at a first temperature for a first period of time, and then incubating the microarray from step (a) at a lower second temperature for a second period of time and the first period is overnight and the second period is 4-6 hours (claim 10),

H) step (b) further comprises incubating the microarray from step (a) at about temperature in the range 65 C to 75 C overnight, and then incubating the microarray from step (a) at about temperature in the range 50 C to 55 C for about 4 to 6 hours (claim 11),

I) further comprising forming a mixture of the at least one specific nucleotide sequence of the target nucleic acid reagent and the capture reagent and contacting the microarray with said mixture (claim 12),

J) further comprising the step of utilizing a blocking nucleotide prior to step (a) to block the hybridization of said capture sequence of said target nucleic acid reagent to said capture reagent (claim 13),

K) further comprising the step of pre-hybridizing a blocking nucleotide to the capture reagent prior to step (a) to prevent hybridization between said capture reagent and said capture sequence of said target nucleic acid reagent (claim 14),

L) further comprising the step of pre-hybridizing a blocking nucleotide to the capture sequence of said target nucleic acid reagent prior to step (a) to prevent hybridization between said capture sequence of said target nucleic acid reagent and said capture reagent (claim 15),

M) wherein step (b) further comprises incubating the microarray from step (a) at a first temperature for a first period of time, and thereafter incubating the microarray from step (a) at a higher second temperature for a second period of time which may be different than the first period of time (claims 16, 18, 19),

N) further comprising the step of utilizing a blocking nucleotide prior to step (a) to block the hybridization of said capture sequence of said target nucleic acid reagent to said capture reagent and wherein step (b) further comprises incubating the microarray from step (a) at a first temperature for a first period of time, and thereafter incubating the microarray from step (a) at a higher second temperature for a second period of time which may be different than the first period of time (claim 17),

O) further comprising the step of utilizing a blocking nucleotide prior to step (a) to block the hybridization of said capture sequence of said target nucleic acid reagent to said capture reagent and wherein step (b) further comprises incubating the microarray from step (a) at a first temperature for a first period of time, and thereafter incubating the microarray from step (a) at a higher second temperature for a second period of time which may be different than the first period of time and wherein the first temperature is below the melt temperature of the blocking oligonucleotide, and the second temperature is at least 5 degrees above the melt temperature of the blocking oligonucleotide yet is also a temperature suitable for binding of the capture reagent to the target nucleic acid (claim 20),

P) further comprising the step of utilizing a blocking nucleotide prior to step (a) to block the hybridization of said capture sequence of said target nucleic acid reagent to said capture reagent and wherein step (b) further comprises incubating the microarray from step (a) at a first temperature for a first period of time, and thereafter incubating the microarray from step (a) at a higher second temperature for a second period of time which may be different than the first period of time and wherein the first period of time is overnight, and the second period of time is about 3-5 hours (claim 21),

Q) further comprising the step of utilizing a blocking nucleotide prior to step (a) to block the hybridization of said capture sequence of said target nucleic acid reagent to said capture reagent and wherein step (b) further comprises incubating the microarray from step (a) at a first temperature for a first period of time, and thereafter incubating the microarray from step (a) at a higher second temperature for a second period of time which may be different than the first period of time and wherein the first temperature is at least 5 C below the melt temperature of the blocking oligonucleotide (claim 22),

R) further comprising forming a mixture of the at least one specific nucleotide sequence of the target nucleic acid reagent and the capture reagent and contacting the microarray with said mixture and wherein step (b) further comprises incubating the microarray from step (a) at the first temperature of about 32 C overnight, and the incubating the microarray from step (a) at the second temperature of about 55 C for about 4 hours (claim 23),

S) further comprising the step of utilizing a spin column to prepare said target nucleic acid reagent, prior to step (a) (claim 24).

The species are independent or distinct because, in the case of capture reagents, each one of them has different structure and function, and in the case of further method steps, each one of them results in a different method.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Therefore, Applicant is required to select one species from the set of capture reagents and one species from the further method steps. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa E. Strzelecka whose telephone number is (571) 272-0789. The examiner can normally be reached on M-F (8:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (571) 272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Teresa E Strzelecka
Primary Examiner
Art Unit 1637
Teresa Strzelecka
7/19/06